

**MINUTES OF LAYTON CITY
COUNCIL WORK MEETING**

AUGUST 4, 2016; 4:11 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT:**

**MAYOR BOB STEVENSON, JOYCE BROWN,
BRUCE DAVIS, TOM DAY, SCOTT FREITAG
AND JOY PETRO**

STAFF PRESENT:

**ALEX JENSEN, STEVE GARSIDE, KENT
ANDERSEN, PETER MATSON AND THIEDA
WELLMAN**

The meeting was held in the Council Conference Room of the Layton City Center.

Mayor Stevenson opened the meeting and turned the time over to Staff.

AGENDA:

PRESENTATION - UTOPIA

Roger Timmerman, Executive Director of UTOPIA, indicated that they had presented a few options to the Council at a previous meeting relative to building out the network in Layton. He said the goal at that time was to introduce what the costs would be from a high level perspective and ways to fund it. Mr. Timmerman said the ways to fund it impacted the costs.

In the opt-in model those that wanted the service could sign up and those that didn't want the service were not impacted at all. The whole project was funded from the fees of those that signed up for the service.

There was another model where the City could argue that the benefit to everyone in the City was such that it would fall in the category of a utility. That would have its own pros and cons. There were different financial implications for the costs and different structures for how it was spread out.

Mr. Timmerman said he wanted to go through the pros and cons of each model; the goal would be to possibly select a mode that would be best for the City. He said they wanted to present all options to the Council and get feedback from the Council on proceeding forward.

Mr. Timmerman said things changed every day because UIA was actively building in Layton. As UIA continued to build in the City the build out costs changed. He displayed a map of where UTOPIA was built in the City and explained the various footprints. Mr. Timmerman explained how stimulus funds were used to install distribution huts and trunk lines. He indicated that there were a lot of fiber projects happening in the United States and some fiber supplies were hard to get.

Council and Staff discussed service to the LDS Church history center.

Mr. Timmerman indicated that they anticipated that with the opt-in model the take rate would be 35% within 3 years. He said they were currently experiencing those numbers across the network. Mr. Timmerman said that take rate in Layton was very achievable; they felt that it would actually be at 45%. He said the business take rate was typically lower; businesses were usually in a long term contract with their current supplier. Mr. Timmerman said the total project costs in the opt-in model were \$28,000,000, which would be funded with a 30-year bond. He said this model would be easier to obtain funding for.

Alex Jensen, City Manager, said this model was the same model UIA had been following for the last few years; there was a lot of confidence that this model would succeed. He said it would be less likely to be

challenged by referendum; charging a utility fee could be challenged by referendum.

Alex explained how over time the cities that had paid the UIA assessment would eventually be paid back. The decision of the UIA Board had been to use excess revenues to continue to grow the network instead of paying the assessments back.

Mr. Timmerman explained how they were being very strategic where they were building. He said the monthly fee for the opt-in model would be \$65; \$30 would go to the City for the infrastructure and \$35 would go to the service provider. This would provide a minimum of 250/250 Mbps.

Mr. Timmerman explained the utility full build model that would only address new debt. Every home would be connected to the network and every resident would pay a utility fee of \$12.45 per month whether they used the service or not. Businesses would pay \$24.90 per month and multi-dwelling units would pay \$6.23. The total cost of the project would be \$58,000,000. Mr. Timmerman said this model had zero risk financially, but there were potential political and legal risks. The bonding for \$58,000,000 might also limit the City from bonding for other things. The total cost to the residents taking the service would be \$47.75 per month for basic service of 250/250 Mbps. Those not taking the service would still pay \$12.45 a month in a utility fee.

Council and Staff discussed service to the School District.

Mr. Timmerman said they did very well with school districts with the exception of Davis County; they had a long term relationship with Century Link.

Alex said the infrastructure was to the schools.

Council and Staff discussed the services provided by other service providers to businesses.

Mr. Timmerman said the third model presented was a utility full build with repayment of the pledge. Residents would pay \$23.10 a month in a utility fee whether or not they took the service. The total cost for services would be \$58.10; \$23.10 would go to the City in a utility payment and \$35 would go to the service provider. He said this model would generate enough revenue to pay the new debt service on the bond and pay the old UTOPIA debt. Mr. Timmerman said there were pros and cons to all three options.

Councilmember Brown said the opt-in model would be easiest to sell to the public, but the third option was the fairest because everyone would be paying for the old debt.

Council and Staff discussed various scenarios of the three options; adjusting the fees one way or another.

Mr. Timmerman said the opt-in model was much easier for them to sell; that was basically what they were doing today. He said with the utility model, Gary Crane thought that there could be a Century Link law suit and there was a chance of a referendum. Mr. Timmerman said there was also an issue with debt ceiling.

Councilmember Brown said there was always the possibility of a referendum.

Mr. Timmerman said the City could go to the residents with an opinion question about it.

Alex said the threat of a lawsuit by the incumbents was more of a waste of time and harassment, which cost money; they probably couldn't win. Their approach was to delay and cost you money. Bonding companies would probably require an additional back stop in addition to the utility fee before providing funding. The large bond amount could also impair the City from bonding for other needed infrastructure. He said the opt-in model wouldn't have the opposition.

Alex said there was a window of opportunity; the market hadn't responded to the demand. If someone

came in like Google and over built the City, there would be heavier competition. There was tremendous demand for UTOPIA right now because there wasn't a lot of competition.

Mayor Stevenson asked if it would be better for the residents and the City to build the entire system out.

Alex said he thought that from a strict financial standpoint and for the benefit of the community, it could be done cheaper if it was done all at once. There would be political ramifications that the Mayor and Council would have to deal with.

Mayor Stevenson asked what the added benefits would be to the community.

Alex said electronic water metering, improvements with public safety and emergency management, and more sophisticated traffic management.

Councilmember Day said under the opt-in model, all of those things could happen.

Alex said with the exception of metering options.

Mayor Stevenson said with the opt-in model, residents would be paying \$65, but the 2.3 million dollar payment on the old debt would still have to be paid over the next 23 years. He said the City needed to figure out how to pay for that.

Councilmember Day said under the opt-in program, the City was still covering the old debt. He said it could keep going as it was without making everyone mad about the utility fee. Councilmember Day said he had a hard time with the mandatory fee.

Mayor Stevenson said he was looking at what the City could be; as they tried to generate more money to improve the City those dollars had to be figured out.

Councilmember Day said those that were using it should be paying for it.

Councilmember Brown said everyone would be using it; the Police Department that serviced their home would be using it; and water meters would be for everyone. She said the fairest one would be the third option that would also cover the old debt.

Councilmember Day said the people were already paying for it even though it wasn't identified on a bill, and the City was getting a lot of additional revenue through such things as RC Willey.

Mayor Stevenson asked Councilmember Day if it came to an opinion vote that passed, would he support that.

Councilmember Day said yes.

Mayor Stevenson said he thought that 55% of the people would be willing to pay for Option 2 with a monthly utility fee of \$12.45. Everyone was paying more than \$47.50 a month now for internet services. He said he thought that it was important to take it to a vote of the people. If the people voted the utility fee option down then you could go to the opt-in option.

Councilmember Day said there could still be a referendum.

Mayor Stevenson said he didn't think that would happen; if the people voted for it a referendum wouldn't make sense.

Council and Staff discussed impacts of the old debt to the City's budget.

Mayor Stevenson said with the ability to take this to a vote, depending on how the people voted, it would give the Council an answer of which way to go.

Council and Staff discussed the pros and cons of the various models.

Alex explained that there could be a number of different scenarios of the three options.

Councilmember Freitag arrived at 5:35 p.m.

Councilmember Day said it still came down to the take rate. He said he hadn't had a negative email about UTOPIA for a long time. Councilmember Day said he thought the opt-in option would provide a higher take rate than 35% and not have to make the entire community pay if they didn't want it. He would like to see some scenarios with 40% or 50% take rate.

Mayor Stevenson said he would like to see Layton as a fiber town. He said in the next 5 years all television would come through fiber in streaming; there wouldn't be television like we see today.

Mr. Timmerman said with a 45% take rate, there would be a significant increase in revenue and it would make an additional \$63,000 a month. With a 55% take rate it would generate an additional \$99,000 a month.

Councilmember Brown asked when a vote or opinion question could be taken to the people.

Mayor Stevenson said he understood that the City could hold a special election pretty much anytime next year.

Councilmember Day asked what a special election would cost.

Discussion suggested that it would be about \$30,000.

Councilmember Day said spending \$30,000 for a 58 million dollar bond question would be well worth it.

Councilmember Brown said if a special election was held, she would like to see a vote on the various options.

Mayor Stevenson said there was a lot of discussion that would need to happen. He said the citizens needed to know what the service could provide to the City.

Councilmember Brown said the opt-in model could be implemented without taking it to a vote of the people, which could get it going faster.

Councilmember Day said he would agree except for the bonding. He said the Council had promised the people that they would have input.

Mayor Stevenson said the Council needed to think through this and decide what was best for the City going forward.

Councilmember Petro said she would like time to play with the spreadsheets and come up with some different scenarios.

Mayor Stevenson asked some residents sitting in the audience what they thought.

One gentleman (Rick) said with a utility fee everyone would pay; currently only property owners were paying for the debt through general fund revenues.

Dawn Fitzpatrick said she wondered how it would be handled for the 1,000 residents that had already paid for a UTOPIA connection.

Mr. Timmerman said that would have to be worked out; the residents would not be paying double.

Mayor Stevenson asked Dawn if she would have any problem with Option 2.

Dawn said no; she was one of the biggest critics of UTOPIA in the beginning but they loved UTOPIA. She said the service providers had been great to work with and there was no comparison to the service and speeds they received.

Councilmember Petro said there was no comparison with speed and price. She said the service never went down.

Mr. Timmerman said they had a third party company do a survey of UTOPIA customers; they had close to 80% customer approval in Layton. Most other service providers were less than 10%.

Council and Staff discussed the increasing importance of internet service and higher speeds; that importance would only increase over time.

The meeting suspended at 5:59 p.m. for the RDA Meeting.

The meeting reconvened at 6:19 p.m.

Mayor Stevenson left the meeting at 6:20 p.m.

LAYTON ANTELOPE DRIVE COMMUNITY DEVELOPMENT PROJECT AREA PLAN AND BUDGET – ORDINANCE 16-36

Kent Anderson, Deputy Director of Community and Economic Development, said the CDA Plan was reviewed in detail in the earlier RDA meeting, where it was approved by the RDA Board. He said he would review information about an agreement with RC Willey, and the conveyance of land.

Kent said Resolution 16-55 was on the regular meeting agenda and was for a participation agreement with RC Willey that would outline some additional items the City would be participating with. He said those items included \$439,500 toward the costs of the participant's on-site infrastructure improvements; \$698,450 toward the costs of the participant's required impact fees and water exaction; and transfer of 1.106 acres of land. Kent displayed a map of the area and identified the sliver of property that would be transferred to RC Willey. He said part of the requirement for transfer of that land was that RC Willey close on the adjacent property, which had occurred. Kent said another component of the agreement was that RC Willey would have access to another portion of property leased by the City from UDOT. He said UDOT was not interested in selling that property but was willing to enter into a lease arrangement with the City; the City would allow RC Willey to have access to that property. He said the final piece of the agreement was that the participant would not be required to reimburse the City for the construction of 1450 West.

Councilmember Freitag asked if 1450 West would allow for access into the RC Willey property and the IHC property.

Kent said yes. He identified where the accesses into the property would be located.

Councilmember Freitag said with traffic from RC Willey traveling to get to northbound I-15, would additional improvements be needed on University Park Boulevard.

Kent said Engineering hadn't indicated that there would be a need for a signal at the University Park

Boulevard intersection, or any other improvements.

Alex said once the development took place, the City would do a traffic study to determine if it met warrant for a signal or other improvements.

Council and Staff discussed traffic circulation in the area.

ANNEXATION AGREEMENT, ANNEXATION AND REZONE REQUEST – NEVILLE/OVATION HOMES – A (AGRICULTURE) TO R-S PRUD (RESIDENTIAL SUBURBAN PLANNED RESIDENTIAL UNIT DEVELOPMENT) – APPROXIMATELY 1900 WEST 1000 SOUTH – RESOLUTION 16-59 AND ORDINANCE 16-21 AND 16-22

Kent said this was an Ovation Homes annexation agreement, annexation, and rezone request for property located at 1900 West 1000 South next to the future Davis School District junior high property. The property for annexation contained 12.23 acres; a piece of the property off of 1000 South was already located within the City and was zoned R-S. The proposal was to rezone the entire property, which contained 13.66 acres, to R-S PRUD. He said the proposal was to develop 43 lots with 31 detached single family homes, 8 of which would be larger single family lots and 23 cottage type lots, and 12 attached units.

Councilmember Day asked what the size of the lots on the north end would be.

Kent said most of the lots would be around 12,000 square feet with some being close to 19,000 square feet. He said the development agreement indicated that any detached unit could not be less than 1,500 square feet, not including the garage. All homes would have a minimum two car attached garage; the attached units could not be smaller than 1,300 square feet.

Kent said the PRUD ordinance had a significant open space requirement. He said the developer was requesting that some of the open space requirement be allowed to be calculated on the Barlow PRUD, which was adjacent to this property and was being developed by Ovation Homes as well.

Kent said one small change would have to occur, as currently the developers were about 1/4 acre short of the open space requirement. He said in maintaining the same number of lots, the proposal would be to likely amend a single family lot into a cottage lot allowing them to capture an addition 1/4 acre and meet the open space requirement. Kent said that could occur during preliminary approval.

Councilmember Petro said that would be in addition to adding the Barlow piece.

Kent said that was correct; they would still be 1/4 acre short of the 40% open space requirement. He said the applicant was requesting that the development agreement be amended; currently the agreement would allow a total of 43 units; they were requesting that it be amended to allow for 47 units. Primarily that change would occur on the northern portion of the property where the single family lots would then become cottage lots. Kent said Staff believed that 43 units was a good number and provided a good transition with future development along 1000 West. By having the single family lots, it would set the standard of how homes would develop along 1000 West and provide a nice transition to the cottage homes and the attached units to the south. He said Staff's opinion would be to leave the development agreement as is.

Brad Frost, Ovation Homes, said originally their first layout had the road coming straight through the property from the north, but because of a future road and site distance concerns, the City's Engineer required their road to be moved to the west. He said the lots to the north were originally going to be single family lots but there were issues with sewer flow; those homes would probably have to be one level. Mr. Frost said they also wanted to make this a very nice project for the neighborhood and City; the four additional units would allow them to provide two pickle ball courts and a pavilion in the open space. He said they were asking that the single family lots be made into cottage lots; the homes would be 2,200 to

2,400 square feet, and that they be able to add one tri-plex. Mr. Frost said that would allow them an additional .55 acres of open space, which would exceed the requirement.

Mr. Frost said they hadn't had an opportunity to sit down with Mr. Wright and explain this concept. He said it would be a very nice project.

Councilmember Day asked if the pickle ball courts would be public or only for the homeowners.

Mr. Frost said they were open to discussion on that; they could be made public.

Councilmember Brown asked if that would change anything the Council had to decide tonight.

Kent said the annexation agreement would need to be amended; currently it was limited to 43 lots and that would need to be changed to 47 lots.

Steve Garside, Assistant City Attorney, said it could be amended at a later date.

Councilmember Freitag asked if the Planning Commission had any concerns with the number of units.

Dawn Fitzpatrick, Planning Commission Member, said the Planning Commission was comfortable with the original proposal. She said the Planning Commission hadn't seen this new proposal.

Mr. Frost said the new proposal was still under the allowed density.

Ms. Fitzpatrick said a 2,200 to 2,400 square foot rambler would have a bigger footprint than a two-story.

Councilmember Freitag asked what Staff's objections were with the change.

Kent said Staff was concerned with the transition to the cottage homes and the attached units, and setting the standard for other developments that would occur along 1000 West. He said there was still opportunity for development to the west and north. This would set the standard for future development in the area.

Council and Staff discussed road alignment in the area.

Discussion suggested that the agreement could be amended at a later date.

Mr. Norm Frost said their preference would be to amend the agreement this evening, but they would be willing to bring it back at a later date.

Councilmember Brown said she was more concerned with the additional three-plex.

Mr. Frost said they had a huge expense with the road and stubbing utilities into the adjacent properties; the three-plex would allow them to offset additional costs of the pickle ball courts and pavilion. He said this would be a very nice development.

Discussion suggested considering the proposal as it was this evening and coming back later with an amendment.

The meeting adjourned at 6:51 p.m.

Thieda Wellman, City Recorder